

EXHIBIT R

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September 9, 2022

BY E-MAIL

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Re: United States v. Nikparvar-Fard, 18-101 – Discovery Requests

Dear Mary Kay and Chris:

We received your August 24, 2022 letter. We understand that a production was made on August 25, 2022. If the production did not include items 2, 7, and 12, please let us know when they will be produced.

To further narrow the remaining items at issue, we provide the following additional information:

1. In May 2022 during a call, and then again in a June 10, 2022 email, we provided an example of a patient with disparate page counts. Specifically, we indicated that the Government previously produced an un-Bates stamped version of the file of [REDACTED] on September 12, 2019. The Government then produced a Bates-stamped version of the same file on February 26, 2020. Both those versions have 356 pages. The most recent production is a new version of her file, with new Bates numbers, that is 358 pages long.
6. As to CS-14-147168, the Government produced various documents and recordings related to CS-14-147168 (*see* N4-7; N11-12). Yet, no reports related to any of these documents or recordings were produced. If any DEA-6, CHS, or similar reports exist

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related to the produced evidence or otherwise related to this case, the Federal Rules of Criminal Procedure require their production, regardless of whether CS-14-147168 testifies.

As to CS-XX-XXX658, the Government already identified this individual as a CS and indicated whether this CS received benefits from his or her cooperation. Yet, no reports or documents related to the CS were produced. Production of all reports and documents related to this CS must be produced.

The Government's position that it is not required to provide information related to sources who are not trial witnesses is inconsistent with *Brady* and the Government's own prior productions. Criminal defendants have a due process right to access exculpatory and material evidence in the Government's possession with sufficient time to make use of that evidence at trial. *United States v. Alvin*, 30 F. Supp. 3d 323, 333 (E.D. Pa. 2014) (citing *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). The disclosure obligations include evidence that is useful to the defense in impeaching government witnesses, even if the evidence is not inherently exculpatory. *Giglio v. United States*, 405 U.S. 150, 154 (1972). Thus, *Brady* requires the Government to provide any exculpatory or impeachment evidence—regardless of whether the Government plans to call the source related to the evidence at trial. Furthermore, the Government's March 9, 2020 letter regarding discovery included a list of confidential sources and the benefits provided to each. The letter did not indicate that the list was limited to sources who would be trial witnesses, and the inclusion of CS-XX-XXX658 on the list suggests that it was not limited to trial witnesses, because you are now refusing to produce documents related to that source on the basis that he or she will not be a trial witness. We therefore renew our request for all payments and benefits provided to Sources 79731 and Source 84328, who were not included in the March 9, 2020 letter.

7. We request that all reports related to the consensual recordings made by Joanne Rivera be produced and all reports/records related to any interviews of Ms. Rivera (not otherwise produced) be produced.
8. N76 and N77 refers to the exhibit number provided by the Government on the log of discovery provided to defendants. N77 is described as "Oxycodone script 15mg/60 count, Naprosyn 500mg/40, Colace, vitamin D, lidocain, pt eval" on the log and listed as "A" for available. Additionally, the exhibit numbers are referenced at USAO-068317 and USAO-068094, respectively. We attached the relevant pages to this letter.

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Also attached to this letter are documents the Government produced that reference additional documents related to the case. We highlighted all documents that we believe have not yet been produced. Please produce those documents.

Finally, we cannot yet provide an expert report, because the Government continues to produce new evidence that has bearing on his opinions.

Very truly yours,

/s/ Ann E. Querns

Ann E. Querns

cc: Joseph G. Poluka, Esq.
Frank DeSimone, Esq.